

REMARKS

Status of Claims

Claims 1-64 were original in the application. Claims 2, 11, 40, and 62-64 have been cancelled. Claims 7, 8, 17, 19, 20, 23, 26, 27, 31, 34-36, 44-46, 48-50, 52-54, and 58-61 have been withdrawn. Claim 1 has been currently amended. Claims 1, 3-6, 9, 10, 12-16, 18, 21, 22, 24, 25, 28-30, 32, 33, 37-39, 41-43, 47, 51, and 55-57 are submitted for examination on the merits.

Rejection Pursuant to 35 USC 103

In the latest Office Action, the Examiner rejected claims 1, 3, 5, 6, 12-16, 18, 22, 24, 25, 28, 29, 32, 33, 37, 38, 39, 41, 42, 43, 47, 48, and 55 as being unpatentable over US Patent 6,206,914 ("Soykan") in view of US Patent 6,379,323 ("Patterson"). The Applicant respectfully disagrees.

With regards to claim 1, while the Examiner is correct in stating that Soykan discloses an implantable apparatus for infusing a medicating agent with multiple chambers that house various medicating agents, Soykan does not teach nor suggest that the multiple chambers are collapsible as is disclosed in the current application. Therefore claim 1 has been amended to state that the implantable pouch comprises multiple collapsible chambers composed of a bioabsorbable material. Basis for the amendment can be found in the application as filed in paragraph [0082] which states in pertinent part: "In addition the collapse of the chambers 201, 202, and 203, can be

timed to coincide with the depletion of the medicating agent 141 inside the chambers."

Because no new matter has been added to the application and the relied upon prior art of Soykan and Patterson are silent on the use of a collapsible chamber, it does not follow therefore that someone skilled in the art would be able to combine the references as the Examiner has suggested and arrive at the current invention.

Further with regards to claim 1, the Examiner argued under item 14 that the term 'skin' is not structurally defined in the application and that the coating or film covering the stent and the microscopic containment vehicles as disclosed in Soykan is fully capable of being considered a 'skin' under the claim limitations as filed. Therefore claim 1 has been amended to more narrowly define the term 'skin', namely that it must comprise a porous matrix of fibers of cross-linked bovine tendon collagen and a chondroitin-6-sulfate 30 with a layer made of synthetic polysiloxane polymer. Basis for the amendment can be found in paragraph [0062] in the application as filed. Because no new matter has been added to the application and the relied upon prior art of Soykan and Patterson are silent on the use of a synthetic skin as described above, it does not follow therefore that someone skilled in the art would be able to combine the references as the Examiner has suggested and arrive at the current invention.

Further with regards to claim 1, the Examiner argued under item 15 that the term 'proximate' is very broad and may include implantable devices separate from the implantable pumps. The Examiner further suggested structurally defining that the implanted control circuit is housed within the implantable pouch. Therefore claim 1 has been amended to more narrowly define that the implanted control circuit is housed within the pouch and proximate to the pumps. Basis for the amendment can be found in

paragraph [0062] as well as in Fig. 3. Because no new matter has been added to the application and the relied upon prior art of Soykan and Patterson are silent on the use of a microcontroller housed within the pouch and proximate to the pumps, it does not follow therefore that someone skilled in the art would be able to combine the references as the Examiner has suggested and arrive at the current invention.

The Applicant respectfully requests the allowance of claim 1 for at least these reasons.

With regards to claims 3, 5, 6, 12-16, 18, 22, 24, 25, 28, 29, 32, 33, 37, 38, 39, 41, 42, 43, 47, 48, and 55, the claims depend on claim 1 and are therefore allowable on the same grounds presented above with regards to claim 1, which grounds are herein reinstated.

Also in the latest Office Action, the Examiner rejected claims 4, 9, 10, 21, 30, 56, and 57 as being unpatentable over Soykan in view of US Application Publication 2002/0090388 ("Humes"). The Applicant respectfully disagrees.

With regards to claims 4, 9, 10, 21, 30, 56, and 57, the claims depend on claim 1 which contains features not found in Soykan or Humes, namely the use of a combination of a collapsible chamber, a synthetic skin as described above, and a microcontroller disposed within the housing of the pouch. Therefore claims 4, 9, 10, 21, 30, 56, and 57 are allowable on the same grounds presented above with regards to claim 1, which grounds are herein reinstated.

With regards to claim 51, the Examiner appears to acknowledge that the claim is pending under item 4 of the latest Office Action, however the claim is not listed as rejected in either of the 35 USC 103 rejections presented. The Applicant therefore

believes that claim 51 is allowable subject matter and should be granted allowance, however if this is not the case then claim 51 should be allowed on the same grounds presented above with regards to the remaining pending claims, which grounds are herein reinstated.

Applicant respectfully requests advancement of the claims to allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel L. Dawes". The signature is fluid and cursive, with a large initial "D" and a stylized "L" and "Dawes" following.

/Daniel L. Dawes/
Registration No. 27,123
5200 Warner Blvd Ste 106
Huntington Beach, CA 92649
714 8400302
ddawes@dawespatents.com